

REQUEST FOR JUDICIAL NOTICE

EXHIBIT G



STATE OF CALIFORNIA
OFFICE OF THE ATTORNEY GENERAL
BILL LOCKYER
ATTORNEY GENERAL

July 12, 2001

The Honorable Gray Davis
Governor of the State of California
State Capitol, First Floor
Sacramento, CA 95814

Re: Request for Signature on AB 587 (Firebaugh), an Attorney General-Sponsored Bill

Dear Governor Davis:

I write to request your signature on Assembly Bill 587 (Firebaugh), an Attorney General-sponsored bill, which strengthens the deterrent effect of our civil rights statutes by increasing the monetary penalties that may be levied against those found in violation of state law. There is no opposition to this measure.

I am concerned that, in certain cases, defendants who violate the state civil rights statutes are not deterred by the existence of civil i...active relief. Consequently, in appropriate circumstances, the imposition of a significant civil penalty would serve as an effective deterrent against the violation of our state civil rights statutes. Furthermore, victims of these types of violations may be more likely to seek redress through the Attorney General's Office if monetary relief is available. Accordingly, AB 587 authorizes prosecutions initiated by public law enforcement agencies—like those initiated individual victims—to seek a \$25,000 civil penalty against the perpetrators of these offenses.

AB 587 also increases from \$1,000 to \$4,000 the amount of civil damages that may be sought by an individual plaintiff whose rights under the Unruh Civil Rights Act and the Gender Tax Repeal Act are violated. Many violations of these acts result in damages to an individual in amounts less than \$1,000. For example, in two cases that were the subject of reported appellate court decisions, the individual plaintiffs who were discriminated against because of their gender were charged only several dollars more than individuals of the other gender for goods or services

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offered by the defendants. In *Koire v. Metro Car Wash* (1985) 40 Cal.3d 24, the plaintiff was refused discounts on car washes and nightclub cover charges offered to patrons of the opposite gender through gender specific promotions. The actual dollar amount overcharged to the plaintiff based on his gender was \$2 to \$3 per transaction. A similar case was filed by a plaintiff who was overcharged by \$3.79 for an oil change because of his gender. (See *Reese v. Wal-Mart Stores, Inc.* (1999) 73 Cal.App.4th 1225.)

In each such gender based pricing case, a plaintiff would likely only recover the \$1,000 minimum amount, and yet the defendant may have had hundreds or thousands of transactions that violated the act and which would have unjustly enriched him or her. Thus, the prospect of paying an occasional \$1,000 damage award due to a discriminatory promotion may be calculated as an absorbable cost of doing business, if as a result of the promotion, the other customers who are unaware of the law continue to patronize the business. While the difference in the amount paid by a plaintiff may seem trivial and the motive for the offer benevolent or paternalistic, such acts of discrimination would be viewed entirely different if the discounts were offered only to members of a certain race or religion. Because the typical \$1,000 damage award is unlikely to have a significant affect on the discriminatory practices of a business, that minimum amount should be increased to at least \$4,000. This amount will allow plaintiffs to continue to pursue their claims within the jurisdictional limitations of small claims court and will ensure that a small business is not put out of business by the commission of an isolated act of discrimination.

Discriminatory acts that violate our state civil rights laws contribute to disunity and mistrust in our communities. AB 587 will help to deter such acts. I respectfully urge your signature.

Sincerely,



BILL LOCKYER
Attorney General

cc: The Honorable Marco Firebaugh, California State Assembly